

REMARKS

There are 31 claims pending in the application comprising claims 36-62 and 65-68. Claims 65-67 have been amended. Support for these amendments can be found throughout the specification. Also, a new claim 68 has been added for the Examiner's review. The support for this claim can be found throughout specification, but more particularly on paragraph [0072] of the published application. No new matter is added in connection with these amendments. Claims 1-35 and 63-64, which were previously withdrawn due to a restriction requirement, are cancelled without prejudice. As previously indicated, Applicants reserve the right to pursue divisional or continuation applications on the subject matter of claims 1-15 and 63-64.

The present Office Action states that restriction to one of the following invention is required under 35 U.S.C. § 121:

I. Claims 36-62, drawn to a modular wireless network, classified in class 482, subclass 8

II. Claims 65-67, drawn to a method of displaying personal data on a personal computer, classified in class 434, subclass 247

Applicant selects Group I with traverse based on the foregoing

The Office Action first argues that "inventions I and II are related as process and apparatus for its practice", and that the apparatus as claimed can be used to practice another and materially different process such as a wireless network. Second, the Office Action states that these inventions are independent or distinct and that there would be a serious burden on the examiner if the restriction is not required because the inventions have acquired a separate status in the art in view of their different classification. The MPEP states that for the examiner to make a *prima facie* case both of the above requirements have to be met. Applicants submit that as demonstrated herein, the Examiner has not made a *prima facie* case or the two above prongs required to permit a restriction requirement have not been met.

First, there will be no serious burden on the examiner because the Examiner would cover the subject matter of Group II as result of searching the independent and dependent claims in Group I. To assist the Examiner, Applicant has made certain amendments to the claims in Group II. In addition, the Examiner has already searched and issued a substantive Office Action on claim 36-62 and 65-67 in the previous Office Action. A response to that Office Action was filed but no clarification with respect to the status of those rejections as been

provided in the present Office Action. As such, the issuance of the substantive action on all of the Group I and II claims illustrates that there would be no serious burden on the Examiner to search and examine both claim sets in this application.

Second, Applicant points out that Group II is not drawn to method claims, which the Examiner's stated basis for the restriction. Independent claim 65 is a method claim, but independent claim 66 and dependent claim 67 are both drawn to apparatus claims. Therefore, the distinction between apparatus and method claims asserted by the Office Action is without basis. If applicable, claims 66 and 67 should be part of Group I.

Third, this is the second restriction issued in this case. The application was the subject of an earlier 22-way restriction in which, as Applicant understands, the previous Examiner obtained the approval of each Art Unit to which a restricted claim Group would be assigned. Applicant does not understand why now a further restriction is issued and why it is now issued after the present Art Unit accepted the Application for examination.

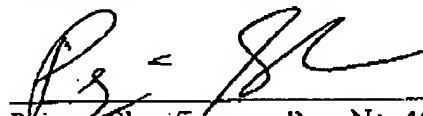
Reconsideration and withdrawal of the restriction is respectfully requested.

Applicant has left two voicemail messages with the Examiner seeking to discuss the above issues but has not received a response.

Applicant believes that application is now in condition for allowance. The issuance of a notice of allowance is respectfully requested. The Examiner is invited to contact the undersigned if any additional information is required.

Respectfully submitted,

2/5/07
date


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